

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Julie Straub, David Altreuter, Howard Bernstein, Donald E. Chickering, III,
Sarwat Khattak, and Greg Randall

Serial No: 10/053,929 **Art Unit:** 1618

Filed: January 22, 2002 **Examiner:** Blessing M. Fubara

For: *POROUS DRUG MATRICES AND METHODS OF MANUFACTURE THEREOF*

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER OVER TWO ISSUED PATENTS

Sir:

Petitioner, Acusphere, Inc., is the owner of the entire interest in the above-identified application and U.S. Patent No. 6,589,557, issued July 8, 2003; and U.S. Reissued Patent No. RE40,493, reissued September 9, 2008, as evidenced by the accompanying three (3) Statements Under 37 C.F.R. § 3.73(b). Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 and 173 as shortened by any terminal disclaimer of U.S. Patent Nos. 6,589,557 and RE40,493. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and U. S. Patent Nos. 6,589,557 and RE40,493 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full

statutory term as defined in 35 U.S.C. §§ 154 and 173 of U.S. Patent Nos. 6,589,557 or RE40,493, as shortened by any terminal disclaimer, in the event that the granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer.

The undersigned (whose title is supplied below) is empowered to act on behalf of Acusphere, Inc.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

ACUSPHERE, INC.

By: *Rivka D. Monheit*

Name: Rivka D. Monheit, Reg. No. 48,731

Title: Attorney of Record

Date: November 15, 2010